

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY APRIL 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2631**

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**Introduced by Assembly Member Dababneh**

February 21, 2014

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An act to amend Sections 361, 3018, ~~19370~~, *15250*, and 19371 of, to amend the heading of Article 5 (commencing *with* Section 13282) of Chapter 3 of Division 13 of, to amend and renumber Sections 19382 and 19385 of, *to add Section 15250.5 to*, and to repeal Sections 13283, 13284, 13285, 13286, 13287, 13288, 13289, *19370*, 19380, 19381, 19383, 19384, and 19386 of, the Elections Code, relating to elections.

### LEGISLATIVE COUNSEL’S DIGEST

AB 2631, as amended, Dababneh. Elections: voting machines.

Existing law provides for the conduct of statewide and local elections and sets forth provisions governing, among other things, election procedures, the declaration of results, and election contests. Existing law defines for these purposes the term “voting machine” to mean any device upon which a voter may register his or her vote, and which, by means of counters, embossing, or printouts, furnishes a total of the number of votes cast for each candidate or measure.

Existing law requires that the Secretary of State certify or conditionally approve a direct recording electronic voting system only if the system includes an accessible voter verified paper audit trail. Existing law defines for these purposes the term “direct recording electronic voting system” as a voting system that records a vote

electronically and does not require or permit the voter to record his or her vote directly onto a tangible ballot.

This bill would modify and update the definition of “voting machine” to mean any electronic device into which a voter may enter his or her votes, and which, by means of electronic tabulation and generation of specified printouts and records, furnishes a total of the number of votes cast for each candidate or measure. The bill would make conforming changes and repeal obsolete provisions of existing law. The bill would substitute certain references to the term “voting system” with the term “direct recording electronic voting system.”

*Existing law specifies the procedure to be followed for counting ballots in connection with the semifinal official canvass for an election. Existing law requires a precinct board to complete a certificate of performance and to post a results of votes cast form if votes are manually counted at the precinct, among other requirements.*

*This bill would require a precinct board counting votes at the precinct by means of a voting machine to also complete a certificate of performance and to post a results of votes cast form, as specified.*

Existing law requires the precinct board, as soon as the polls are closed, to comply with specified requirements relating to the closing of the polls, including, but not limited to, the locking of voting machines and the reading and posting of the statement of return of votes cast for the precinct. Existing law also sets forth the procedures by which the proclamation of the result of the votes cast must be distinctly announced.

This bill would modify and repeal certain precinct board requirements and procedures relating to the reading, posting, and inspection of the statement of return of votes cast for the precinct. By imposing new duties on local officials, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 361 of the Elections Code is amended to read:

361. "Voting machine" means any electronic device, including, but not limited to, a precinct optical scanner and a direct recording voting system, into which a voter may enter his or her votes, and which, by means of electronic tabulation and generation of printouts or other tangible, human-readable records, furnishes a total of the number of votes cast for each candidate and for or against each measure.

SEC. 2. Section 3018 of the Elections Code is amended to read:

3018. (a) Any voter using a vote by mail ballot may, prior to the close of the polls on election day, vote the ballot at the office of the elections official. The voter shall vote the ballot in the presence of an officer of the elections official or in a voting booth, at the discretion of the elections official, but in no case may his or her vote be observed. Where direct recording electronic voting systems, as defined in subdivision (b) of Section 19271, are used the elections official shall provide sufficient direct recording electronic voting systems to include all ballot types in the election.

(b) For purposes of this section, the office of an elections official may include satellite locations. Notice of the satellite locations shall be made by the elections official by the issuance of a general news release, issued not later than 14 days prior to voting at the satellite location, except that in a county with a declared emergency or disaster, notice shall be made not later than 48 hours prior to voting at the satellite location. The news release shall set forth the following information:

(1) The satellite location or locations.

(2) The dates and hours the satellite location or locations will be open.

(3) A telephone number that voters may use to obtain information regarding vote by mail ballots and the satellite locations.

(c) Vote by mail ballots voted at a satellite location pursuant to this section shall be placed in a vote by mail voter identification envelope to be completed by the voter pursuant to Section 3011. However, if the elections official provides sufficient direct recording electronic voting systems to include systems such that

1 all ballot types in the election *may be cast*, the vote by mail ballot  
2 may be cast on a direct recording electronic voting system.

3 SEC. 3. The heading of Article 5 (commencing with Section  
4 13282) of Chapter 3 of Division 13 of the Elections Code is  
5 amended to read:

6  
7 Article 5. Ballot Labels  
8

9 SEC. 4. Section 13283 of the Elections Code is repealed.

10 SEC. 5. Section 13284 of the Elections Code is repealed.

11 SEC. 6. Section 13285 of the Elections Code is repealed.

12 SEC. 7. Section 13286 of the Elections Code is repealed.

13 SEC. 8. Section 13287 of the Elections Code is repealed.

14 SEC. 9. Section 13288 of the Elections Code is repealed.

15 SEC. 10. Section 13289 of the Elections Code is repealed.

16 SEC. 11. *Section 15250 of the Elections Code is amended to*  
17 *read:*

18 ~~15250. The ballots may be counted at the polls if a counting~~  
19 ~~or tabulating machine approved therefor pursuant to Article 1~~  
20 ~~(commencing with Section 19200) of Chapter 3 of Division 19 is~~  
21 ~~available at the polls.~~

22 *15250. This article applies to all elections in which votes are*  
23 *counted by means of a voting machine.*

24 SEC. 12. *Section 15250.5 is added to the Elections Code, to*  
25 *read:*

26 *15250.5. (a) As soon as the polls are closed, the precinct*  
27 *board, in the presence of the watchers and all others lawfully*  
28 *present, shall immediately lock the voting machine against voting*  
29 *and do all of the following:*

30 *(1) Count the votes cast on voting machines and report the*  
31 *results pursuant to subdivisions (b) and (c).*

32 *(2) Complete, sign, and return to the elections official all*  
33 *furnished forms requiring its signatures.*

34 *(b) When votes are counted on one or more voting machines at*  
35 *the precinct, all members of the precinct board, upon the*  
36 *completion of their duties, shall sign a certificate of performance,*  
37 *which shall be substantially in the following form:*

*Certificate of Performance*

*This certificate of performance is for precinct \_\_\_\_\_, for the \_\_\_\_\_ election, held on the \_\_\_\_\_ day of \_\_\_\_\_, (year).*

*We hereby certify ONE of the following: (Please check only the one that applies.)*

**(A) RESULTS OF VOTES CAST FROM ALL VOTING MACHINES ARE POSTED.**

*(1) The results of the votes cast form posted outside the polling place includes the total number of votes cast on each voting machine for each candidate for each office, and the total number of votes cast on each voting machine for and against each ballot measure.*

*(2) The results of votes cast form provided to the county elections official shows the same numbers.*

**(B) RESULTS OF VOTES CAST ARE NOT POSTED FOR VOTING MACHINES THAT RECORDED FEWER THAN 10 BALLOTS. RESULTS OF VOTES CAST ON ALL OTHER VOTING MACHINES ARE POSTED.**

*(1) The results of the votes cast form posted outside the polling place includes the total number of votes cast on each voting machine for each candidate for each office, and the total number of votes cast on each voting machine for and against each ballot measure, except as provided in paragraph (2).*

*(2) For each voting machine recording fewer than 10 ballots, only the number of ballots cast on that machine is posted.*

*(3) The results of votes cast form provided to the county elections official shows the same numbers.*

(C) RESULTS OF VOTES CAST ARE NOT POSTED FOR ANY  
VOTING MACHINES BECAUSE FEWER THAN 10 BALLOTS  
WERE CAST IN THE PRECINCT.

*In this case, only the number of ballots cast on each voting machine is posted and included on the results of votes cast form provided to the county elections official.*

Inspector	Clerk
Assistant Inspector	Clerk
Judge	Clerk
Judge	Clerk

(c) (1) The precinct board shall sign and post conspicuously on the outside of the polling place a copy of the results of votes cast form. The copy shall remain posted for at least 48 hours after the official time fixed for the closing of the polls.

(2) To protect a person's right to cast a secret ballot under Section 7 of Article II of the California Constitution, in cases where fewer than 10 voters cast ballots on any single voting machine on which the results are tallied at the precinct, the precinct board shall post only the total number of people who voted on that voting machine, and shall not post the total number of votes cast on each voting machine for each candidate for each office or the total number of votes cast on each voting machine for and against each ballot measure.

~~SEC. 11. Section 19370 of the Elections Code is amended to read:~~

~~19370. (a) As soon as the polls are closed, the precinct board, in the presence of the watchers and all others lawfully present, shall immediately lock the voting machine against voting and generate from each voting machine at least three copies of a statement of return of votes cast.~~

~~(b) One copy of the statement of return of votes cast for each voting machine shall be posted upon the outside wall of the precinct~~

1 for all to see. The copy of the result shall be signed by the members  
2 of the precinct board. To protect a person's right to cast a secret  
3 ballot under Section 7 of Article II of the California Constitution,  
4 in cases where fewer than 10 voters cast ballots on any single  
5 voting machine on which the results are tallied at the precinct, the  
6 precinct board shall post only the total number of people who voted  
7 on that voting machine. The statement of return of votes cast for  
8 each voting machine for the precinct shall constitute the precinct  
9 statement of result of votes cast.

10 *SEC. 13. Section 19370 of the Elections Code is repealed.*

11 19370. As soon as the polls are closed, the precinct board, in  
12 the presence of the watchers and all others lawfully present, shall  
13 immediately lock the voting machine against voting and open the  
14 counting compartments, giving full view of all counter numbers.  
15 A board member shall, in the order of the offices as their titles are  
16 arranged on the machine, read and distinctly announce the name  
17 or designating number and letter on each counter for each  
18 candidate's name and the result as shown by the counter numbers.  
19 He or she shall also in the same manner announce the vote on each  
20 measure.

21 If the machine is provided with a recording device, in lieu of  
22 opening the counter compartment, the precinct board shall proceed  
23 to operate the mechanism to produce the statement of return of  
24 votes cast record in a minimum of three copies, remove the  
25 irregular ballot, if any, record on the statement of return of votes  
26 cast record. The irregular ballot shall be attached to the statement  
27 of result record of votes cast for the machine and become a part  
28 thereof. One copy of the statement of return of votes cast for each  
29 machine shall be posted upon the outside wall of the precinct for  
30 all to see. To protect a person's right to cast a secret ballot under  
31 Section 7 of Article II of the California Constitution, in cases where  
32 fewer than 10 voters cast ballots on any single machine on which  
33 the results are tallied at the precinct, the precinct board shall post  
34 only the total number of people who voted at that precinct on the  
35 machine that keeps vote tallies. The statement of return of votes  
36 cast for each machine for the precinct shall constitute the precinct  
37 statement of result of votes cast.

38 *SEC. 12.*

39 *SEC. 14. Section 19371 of the Elections Code is amended to*  
40 *read:*

1     ~~19371. Before adjourning, the precinct board shall seal each~~  
2 ~~voting machine with the seal or seals provided and lock the voting~~  
3 ~~machine.~~

4     *19371. Before adjourning, the precinct board shall do all of*  
5 *the following:*

6     *(a) Comply with the requirements of Section 15250.5.*

7     *(b) Seal each voting machine with the seal or seals provided.*

8     *(c) Lock the voting machines.*

9     ~~SEC. 13.~~

10    ~~SEC. 15.~~ Section 19380 of the Elections Code is repealed.

11    ~~SEC. 14.~~

12    ~~SEC. 16.~~ Section 19381 of the Elections Code is repealed.

13    ~~SEC. 15.~~

14    ~~SEC. 17.~~ Section 19382 of the Elections Code is amended and  
15 renumbered to read:

16    19380. The statement of the result of votes cast, which shall  
17 be certified by the precinct board, shall contain:

18    (a) The total number of votes cast.

19    (b) The number of votes cast for each candidate and measure  
20 as shown on the statement of return of votes cast.

21    (c) The number of votes for persons not nominated.

22    (d) Printed directions to the precinct board for their guidance  
23 before the polls are opened and when the polls are closed.

24    (e) A certificate which shall be signed by the election officers  
25 before the polls are opened, showing:

26    (1) The delivery of the keys in a sealed envelope.

27    (2) The number on the seal or seals.

28    (3) The number registered on the protective counter.

29    (4) Whether all of the counters are set at zero (000).

30    (5) Whether the public counter is set at zero (000).

31    (f) A certificate that shall be filled out after the polls have been  
32 closed, showing:

33    (1) That the voting machine has been locked against voting and  
34 sealed.

35    (2) The number of voters as shown on the public counter.

36    (3) The number on the seal or seals.

37    (4) The number registered on the protective counter.

38    (5) That the voting machine is closed and locked.

39    ~~SEC. 16.~~

40    ~~SEC. 18.~~ Section 19383 of the Elections Code is repealed.



~~SEC. 17.~~

*SEC. 19.* Section 19384 of the Elections Code is repealed.

~~SEC. 18.~~

*SEC. 20.* Section 19385 of the Elections Code is amended and renumbered to read:

19381. The precinct board shall immediately transmit unsealed to the elections official a copy of the result of the votes cast at the polling place, the copy shall be signed by the members of the precinct board, and shall be open to public inspection.

~~SEC. 19.~~

*SEC. 21.* Section 19386 of the Elections Code is repealed.

~~SEC. 20.~~

*SEC. 22.* If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.